

REMARKS

The Office Action dated July 14, 2004 has been reviewed. Claim 23 has been amended to more clearly indicate the present invention as supported in the specification.

In view of the foregoing amended claims and the following arguments, it is respectfully submitted that the claims are in condition for allowance.

Rejection of Claims Under the Judicially Created Doctrine of Obviousness-type Double Patenting

In the Office Action dated July 14, 2004, the Examiner provisionally rejected claims 1-28 and 35 under the judicially created doctrine of obviousness-type double patenting over claims 1-28 and 35 of copending application number 10/706,552.

Applicant respectfully submits that the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting is overcome in view of the terminal disclaimer submitted herewith in accordance with the provisions of 37 C.F.R. 1.321(c). The terminal disclaimer shows the subject application is commonly owned with application number 10/706,552. In view thereof, it is respectfully requested that the Examiner withdraw the rejection of claims 1-28 and 35 under the judicially created doctrine of obviousness-type double patenting, as applicable to the claims now pending in the application.

Rejection of Claims Under 35 U.S.C. §103(a)

In the Office Action dated July 14, 2004, the Examiner rejected amended claim 23 under 35 U.S.C. §103(a) as being unpatentable over Sawaragi et al. (U.S. Patent No. 5,314,947) in view of Takashita et al. (U.S. Patent No. 6,057,039). Applicant respectfully submits for the reasons set forth below that the Examiner's rejection of claim 23, as amended, is respectfully traversed.

Sawaragi describes a coating composition having a refractive index, enhanced dyeing properties and scratch resistance. The coating composition of Sawaragi includes the use of an epoxy functional silane to provide surface hardness and increased refractive index and the use of a metal oxide sol (including antimony, tin and titanium oxide) to provide transparency, surface hardness and a refractive index. Sawaragi teaches away from the use of a colloidal silica (See Sawaragi comparative example, columns 8 and 9 of Sawaragi). In the Sawaragi comparative example, the replacement of silica for titania results in a very low refractive index product (1.47 compared to non-silica containing formulations, which had refractive indexes from 1.55-1.59). Thus, Sawaragi by itself actually teaches away from the present invention by showing the adverse effects of excluding a metal oxide on the refractive index of a composition. In this case, Sawaragi demonstrates that by adding colloidal silica to a coating composition, a negative result is obtained. Any such

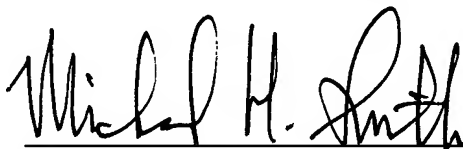
Sawaragi coating composition would be disadvantaged through the use of colloidal silica.

Takeshita does not supply the deficiency of Sawaragi, thus, the Examiner's rejection of claim 23, as amended, under 35 U.S.C. § 103(a) cannot be maintained. It is respectfully requested that the Examiner pass amended claim 23 to an expedient issuance.

Conclusion

The foregoing is meant to be a full and complete response to the Office Action mailed July 14, 2004. In light of the amendments to the claims and the arguments made herein, all of the currently pending claims are patentable over the prior art of record. Therefore, it is requested that the Examiner reconsider each and every rejection as applicable to the claims now pending in the application and pass such claims to issue.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael H. Smith", written over a horizontal line.

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